

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

v.

ERIC JAEGER and
JERRY A. SHANAHAN,

Defendants.

No. 01:07-00039-SM

REQUEST FOR ORAL ARGUMENT

**DEFENDANT ERIC JAEGER'S MOTION FOR SUMMARY JUDGMENT IN LIGHT
OF NEW AUTHORITY**

Defendant Eric Jaeger hereby moves for summary judgment as to the allegation that he aided and abetted a “scheme” under Rule 10b-5(a) & (c) with respect to the Centricity, iPolicy, and Everest Broadband transactions, pursuant to Fed. R. Civ. P. 56 and Local Rule 7.2(b). In support of this Motion, Mr. Jaeger states as follows:

1. The Court previously dismissed the vast majority of the Securities and Exchange Commission’s (“SEC”) case against Mr. Jaeger, including the dismissal of five of seven claims against Mr. Jaeger and every claim under which the SEC sought to hold him liable for Enterasys Network Inc.’s (“Enterasys”) allegedly false GAAP financial statements.

2. The SEC lacks admissible evidence sufficient to get to a jury on the small portion of Count III that the Court sustained, namely that Mr. Jaeger allegedly aided and abetted a “scheme” under Rule 10b-5(a) & (c) with respect to the three transactions at issue, *i.e.*, Centricity, iPolicy, and Everest Broadband.

3. The grounds for this Motion are set forth in greater detail in the accompanying Memorandum of Law in Support of Motion for Summary Judgment In Light of New Authority, filed herewith.

REQUEST FOR ORAL ARGUMENT

Mr. Jaeger respectfully requests a brief oral argument pursuant to L.R. 7.1(d). Mr. Jaeger makes this request because he believes that oral argument may assist the Court's consideration of this Motion and he would appreciate the opportunity for counsel to address any issues raised by, or questions posed by, the Court. As the Court has already reduced the case to two narrow claims, and also has articulated the legal standards governing those two claims, Mr. Jaeger is prepared to limit his argument, if one is permitted, to the fifteen (15) minutes called for by L.R. 7.1(d).

WHEREFORE, Mr. Jaeger respectfully requests that the Court:

- (1) Grant his Motion for Summary Judgment, and enter Final Judgment for him and against Plaintiff Securities and Exchange Commission as to claim that he aided and abetted a "scheme" under Rule 10b-5(a) & (c);
- (2) Award Mr. Jaeger his reasonable attorneys' fees and expenses; and
- (3) Award any other relief as is fair and just.

Dated: June 25, 2012

Respectfully submitted,

ERIC JAEGER,

By his attorneys,

/s/ Jonathan A. Shapiro

Jonathan A. Shapiro

Elizabeth H. Skey (admitted *pro hac vice*)

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CERTIFICATE OF SERVICE

I, James Lux, hereby certify that Mr. Jaeger's Motion for Summary Judgment will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on June 25, 2012.

Dated: June 25, 2012

/s/ James Lux

James Lux